

February 1, 2006

Mark D. Anstoetter

VIA FACSIMILE

Missouri Air Conservation Commission
Attn: Mr. David Gilmore
Air Conservation Commission Secretary
P. O. Box 176
Jefferson City, MO 65102
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Missouri 64108-2613
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Re: Renewable Environmental Solutions, LLC—MDNR Request for Referral

Dear Commission Members:

The Air Pollution Control Program has requested a referral to the Attorney General regarding Renewable Environmental Solutions, LLC (“RES”).¹ Our firm is counsel to RES and submits these comments for the Commission’s consideration. This proposed referral is procedurally irregular and entirely unnecessary to accomplish any legitimate regulatory purpose. Pursuant to the Commission’s *Operating Principles* that provide for public testimony on all agenda items, representatives of RES will also attend the February 2, 2006 meeting to further comment upon the proposed referral and to answer questions from the Commission members and staff.

Although it is unclear from the Commission’s February 2, 2006 agenda packet what “matters” are actually sought to be referred to the Attorney General, it does appear that this request concerns the six alleged Notices of Excess Emissions (NOEEs) issued to RES from March to August last year, and an alleged violation of Condition No. 5 of RES’s air emissions permit. RES has stood ready, and stands ready today to pay the maximum statutory penalty of \$10,000 for each of the alleged NOEEs, and is now indisputably in compliance with Condition No. 5 of its permit. Put bluntly, there is actually nothing for the Commission to refer to the Attorney General and given RES’s ongoing good-faith efforts to meet all regulatory expectations, a referral would be completely unjust and counterproductive.

¹ RES operates a facility in Carthage that uses an innovative process to convert hydrocarbons and organic wastes to currently produce over 500 barrels of oil per day and other fuel products. The RES facility has been supported by grants from the United States Department of Energy and the United States Environmental Protection Agency as part of a national strategy to promote alternative fuel sources.

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Summary of Events since the Commission Tour

Since the Commission members toured the RES facility on December 7th, RES has implemented several new and significant odor control measures. In large part, these improvements were already scheduled to be implemented in time for a January 6, 2006 meeting scheduled with the Attorney General and the City of Carthage, but others have been completed following a Cease and Desist Order and Suspension of Permit Order (“Order”) issued by MDNR to RES on December 29th, 2006.² These recent improvements include an Integrated Environmental Services packed bed wet gas scrubber that utilizes ozone as the oxidizing agent for odor control and chlorine dioxide as a back-up system. See Exhibit “A.” Also, RES has fully enclosed its feedstock trailer staging area, and placed it under negative air pressure. See Exhibit “B.”³ Because the Order shut down its operations, RES has not been able to fully test this new equipment, but it is confident that this new equipment will further improve its operations.

RES has appealed the Order, but at the same time has been diligently working with MDNR and the Attorney General to meet the State’s regulatory demands. Indeed, RES recently operated to burn existing feed-stock that had been placed in its tanks prior to the issuance of the Order, and MDNR reported that these additional odor control improvements were operating effectively to reduce odors.⁴ To date, RES has spent more than two million dollars for new odor control technology even though no odor violations have been issued to the facility since August 2005.⁵ It is especially significant that RES has received no odor violations during this time period given the heightened public awareness concerning the operations of RES, and almost daily patrols of the Carthage industrial bottoms area by MDNR Environmental Specialists.

² On January 27, 2006, RES filed an appeal of the Order. This appeal requests the Commission to countermand the Order pursuant to RSMo. Section 643.090.2. To the knowledge of RES, a hearing of this appeal has not yet been scheduled.

³ In the past few months, RES has also increased its stack height, added a vapor capture system to the oil trucks, tested and installed an ozone generation system, installed a permanent ozone generator, and committed to using a street sweeper-scrubber at least three times a week.

⁴ As a sign of the recent progress that RES has been making, on January 30, 2005, RES received permission from MDNR Director Doyle Childers to begin processing on February 1, 2006 a more benign feedstock containing Butterball materials and a mixture of grease and vegetable oil. See the Amendment to Order Dated December 29, 2005, attached as Exhibit “C.” This processing will occur on a limited three-day a week schedule until February 15, 2006 after which time a determination will be made on future operations.

⁵ The Schreiber Cheese Factory located adjacent to RES did, however, receive an odor violation on December 30, 2005, which was the very day after the Order shut down the operations of RES and during a week when the RES plant was not even operating.

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The Nature of the Referral Request is Uncertain

Against this backdrop of ongoing litigation and regulatory compliance, RES is unsure what purpose would be served by the referral(s) now requested by the Air Pollution Control Program. The Memorandum requesting the referral(s) and submitted by James L. Kavanaugh, Director of the Air Pollution Control Program, only generically requests referral of “the matter” to the Attorney General. The Memorandum, however, actually discusses several incidents involving RES without ever specifying whether all of these incidents, or only some portion thereof, are the subject of this referral request. The Memorandum, oddly, also states that on December 30, 2005

“the Director referred this matter to the Missouri Attorney General’s Office under the authority of 643.060, 643.080, and 643.090 RSMo., to compel RES to comply with the requirements of the Missouri Air Conservation Law.”

Just a few sentences later, however, the Memorandum requests a referral of this “matter” to the Attorney General. RES does not believe that any referral that allegedly took place on December 30, 2005 complied with RSMo. Section 643.151, which specifically requires a formal approval by the Commission of any referral to the Attorney General. See *State ex rel. Nixon v. Boone*, 927 S.W.2d 892 (Mo. App. 1996).⁶

RES is suspicious that this present referral request is nothing more than a *post facto* attempt to legitimize a lawsuit filed on January 11, 2006 in Jasper County Superior Court by the Attorney General against RES.⁷ A copy of this lawsuit, the second suit brought against RES by the Attorney General in the same court,⁸ is attached as Exhibit “D.” This lawsuit, brought in the name of the Attorney General alone and not on behalf of MDNR, makes allegations concerning the six NOEEs issued to RES, as well as RES’s alleged

⁶ RSMo. Sections 643.060, 643.080 and 643.090 only provide the Director with general powers, and do not permit a referral by the Director of MDNR in the absence of Commission approval, except when the director has reasonable grounds to believe a violation of Section 577.200 has occurred. No such allegation has been or could be made in regard to the activities of RES. Indeed, the Revised Statutes of Missouri do not contain a Section 577.200, and Chapter 577 merely includes certain specified Public Safety Offenses of a criminal nature.

⁷ *State of Missouri ex rel. Jeremiah W. (Jay) Nixon, Attorney General of Missouri v. Renewable Environmental Solutions, LLC*, Case No. 06AP-0000001.

⁸ The Attorney General and the City of Carthage sued RES on April 13, 2005 under a nuisance theory for alleged odor issues associated with the RES facility. *State of Missouri, ex rel., Jeremiah W. (Jay) Nixon, Attorney General of Missouri, and the City of Carthage, Missouri v. Renewable Environmental Solutions, L.L.C.*, Case No. 05AP-CC00035.

non-compliance with Special Condition 5 its permit.⁹ It states that the lawsuit was filed based upon the powers granted to the Attorney General under RSMo. Section 643.151. However, as already explained, the power to bring any such lawsuit is specifically conditioned upon a formal referral from the Commission. In light of this evident procedural irregularity, RES has filed a Motion to Dismiss the January 11, 2006 lawsuit with the Jasper County Circuit Court. The Commission should not sanction such disregard for its role by improperly "rubber stamping" a referral request that appears to be nothing more than a *post hoc* rationale to support an improvidently brought and unnecessary lawsuit.¹⁰

A Referral Would Not Serve Any Regulatory Purpose

Assuming that the subject matter of this requested referral is indeed the same as the subject matter of the already filed lawsuit, RES is confident that upon due consideration, the Commission will conclude that a referral would not serve any regulatory purpose. Again, if necessary, RES stands ready to pay the maximum allowed statutory penalty of \$10,000 for each alleged NOEE. Indeed, in regard to these six NOEEs, the lawsuit filed by the Attorney General only seeks to recover the statutory penalty. It is not necessary to file a lawsuit to obtain that which RES will do voluntarily. To avoid costly litigation, RES will pay the maximum statutory penalty even though it continues to believe that under the penalty policy of the MDNR, no penalty or only a minor penalty is properly assessable.¹¹ As explained in its appeal of the Order, all of the alleged violations occurred in non-residential areas. In fact, four occurred on a levee, in the uninhabited area north of the Carthage industrial area. All of the NOEEs allege that odor was detected at 7:1, the minimum threshold for a violation of the odor rule to occur. Also, RES continues to question whether RES was the source (or at a minimum the sole source) of the odor detected by MDNR. At the same time, RES wishes to devote its limited resources to perfecting its innovative process and working with regulators to

⁹ This lawsuit does not make any allegations concerning a violation of the Cease and Desist Order.

¹⁰ This type of irregular process has also violated the due process rights guaranteed to RES by the state and federal constitutions. Put simply, due process requires the government to give notice and an opportunity for a hearing. See e.g., *Dabin v. Director of Revenue*, 9 S.W.3d 610, 614 (Mo. 2000); *Moore v. Board of Educ.*, 836 S.W.2d 943, 948 (Mo. banc 1992).

¹¹ As the Commission is aware, the penalty policy has two primary components – potential harm to health or the environment and the extent of deviation from regulatory requirements. See 10 CSR § 10-6.230. For a violation with a minor potential for harm and minor extent of deviation, the recommended gravity-based penalty is zero. *Id.* Even if this incident were considered "moderate" in terms of extent of deviation, the recommended penalty would be \$500 to be \$1250. *Id.* The policy also takes into account other mitigating factors, such as a company's good-faith efforts to cooperate. *Id.*

further ensure best odor control practices. Accordingly, if necessary, RES will pay the maximum statutory penalty for the NOEEs.

The second factual basis of the January 11, 2006 lawsuit is RES's alleged non-compliance with Special Condition No. 5 of Permit #082002-001. Since the Permit was first issued to RES on July 2, 2002, RES and MDNR personnel engaged in ongoing negotiations regarding the meaning of the permit and the best way for RES to comply with its requirements. Indeed, RES believes that MDNR personnel would support its argument that the correct interpretation of the permit was an unsettled matter at the time the Order was issued. Up until this time, RES was operating under the impression that its efforts to cover the facility's trucks was sufficient to satisfy the requirements of this permit. Nevertheless, upon receipt of the Order, RES worked with MDNR to fully enclose its feedstock trailer staging area. See Exhibit B. RES believes that its negotiations with MDNR have fully resolved this alleged violation. Indeed, RES believes that it is impossible to argue that RES and the State have ever been at an impasse in resolving this issue, or that "conference, conciliation and persuasion" has not been successful in resolving this alleged violation. RSMo. §§ 643.151, 643.020. As such, RES challenges the MDNR to articulate why they believe the parties are at an impasse and why a referral for enforcement is necessary.

The Permit—at most—only requires a "cover" on solid and liquid materials awaiting processing, and fully enclosing this area clearly goes beyond RES's legal requirements. In addition, RES has voluntarily agreed to place this entire enclosed staging area under negative air pressure. Moreover, this staging area has been connected to an air scrubber which will even further reduce the risk of any fugitive emissions. Therefore, RES firmly believes that it is wholly unnecessary for the Commission to refer this alleged violation of its Permit to the Attorney General, when it is clear that not only is RES complying with its legal obligations, it has already gone well beyond its permit requirements in a good-faith effort to further ensure best odor control practices. It is entirely unclear what regulatory goal can be accomplished by suing RES for non-compliance with its permit obligations when RES is clearly in compliance with its permit.

Conclusion

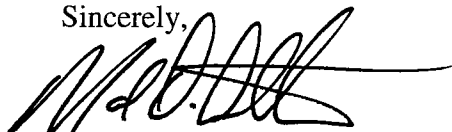
In short, this proposed referral is procedurally improper and wholly unnecessary to accomplish the Commission's legislatively established goals of protecting the public while at the same time encouraging full employment and industrial development in Missouri. See RSMo § 643.030. The Commission's governing statute envisions a balanced approach that protects the public but also is fair to the businesses that provide jobs to the citizens of Missouri. RES is acting in good faith to meet the expectations of regulators, and it continues exceed its legal obligations. There is simply no factual or policy basis to support a referral of anything regarding RES to the Attorney General. RES believes that nothing substantive can be obtained by a referral. In settlement of the

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six Notices of Excess Emissions (NOEEs) issued to RES during a time period of March 31, 2005 to August 5, 2005, RES will pay, if necessary, the full administrative penalty of \$10,000 for each violation. Further, RES is now indisputably in compliance with even the most stringent interpretation of Permit #082002-001.

This referral request appears to be nothing more than a *post hoc* rationalization for an improperly filed lawsuit. There is no regulatory purpose for now referring this matter to the Attorney General. RES requests that the Commission appropriately exercise its discretion and refuse to refer this matter to the Attorney General for prosecution. RES is prepared to immediately meet with the MDNR and the Office of the Attorney General to prepare a written settlement agreement to formally resolve these alleged violations in the manner suggested herein.

Sincerely,



Mark D. Anstoetter

cc: Mr. Timothy P. Duggan, Esq.

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EXHIBIT A

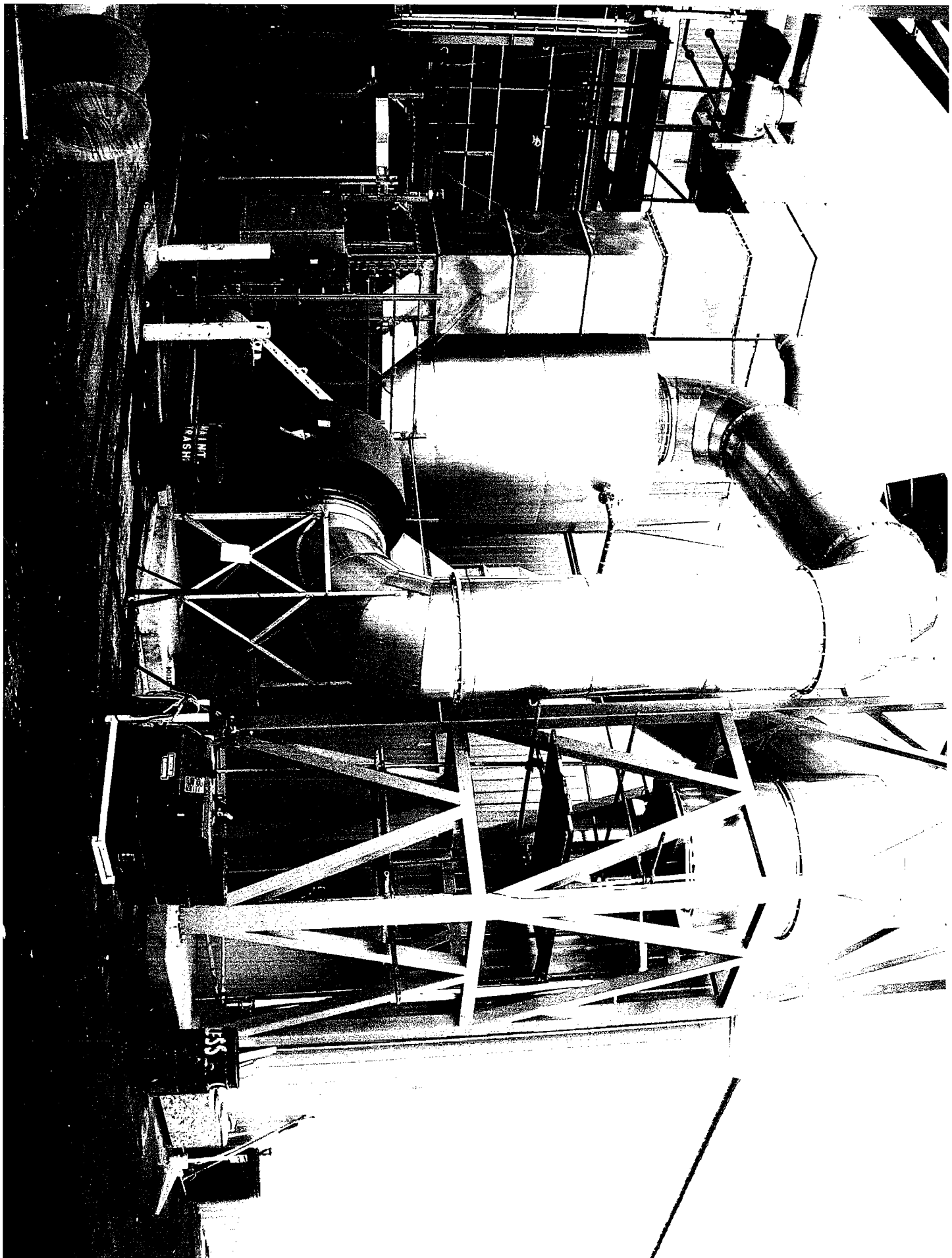


EXHIBIT B



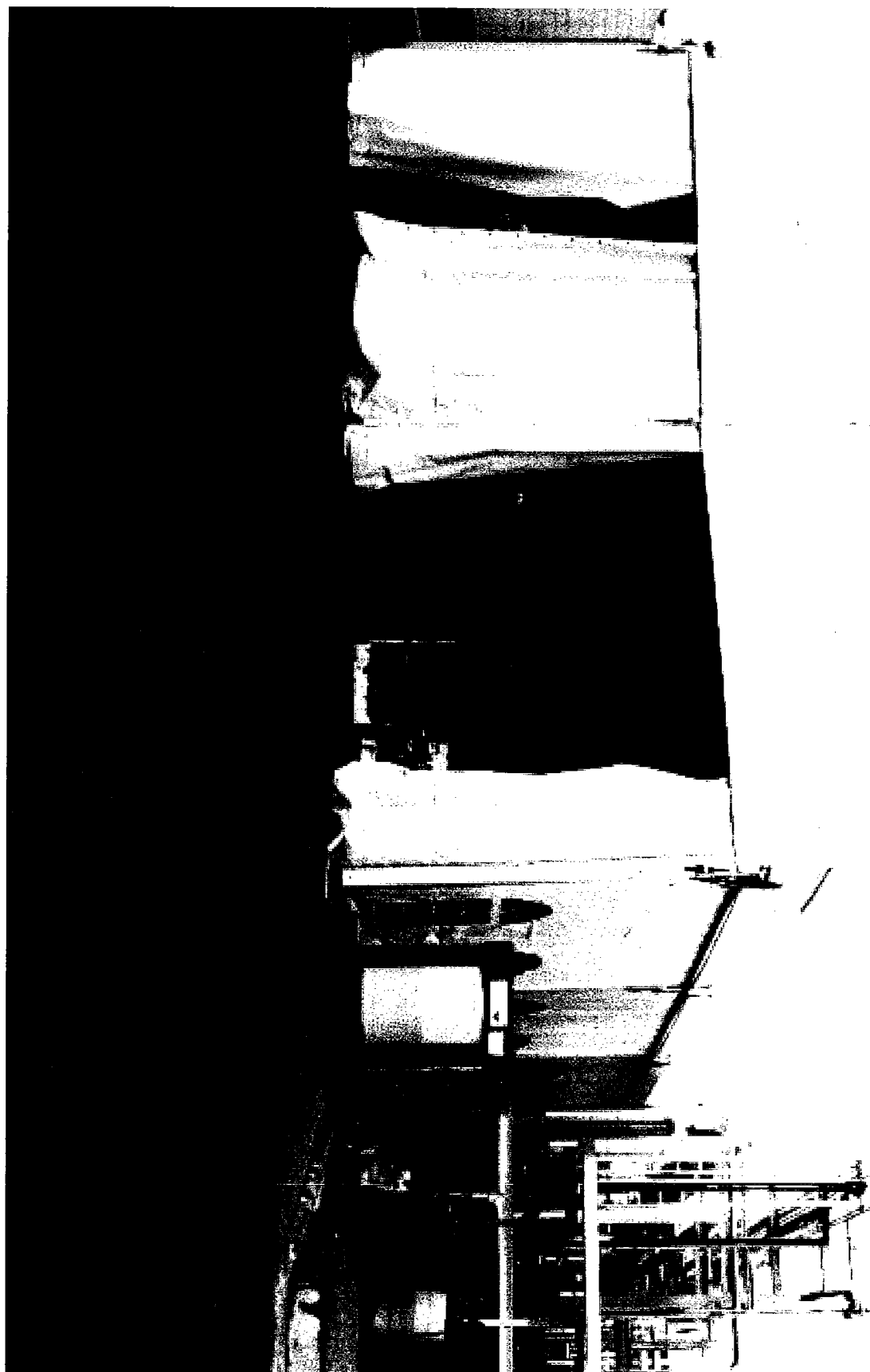


EXHIBIT C



Matt Blunt, Governor • Doyle Childers, Director

DEPARTMENT OF NATURAL RESOURCES

www.dnr.mo.gov

JAN 30 2006

Mr. Don Sanders, Plant Manager
Renewable Environmental Solutions, Inc.
530 North Main
Carthage, MO 64836

Mr. Mark Anstoetter
Shook, Hardy & Bacon
2555 Grand Blvd.
Kansas City, MO 64108-2613

Dear Mr. Anstoetter and Mr. Sanders:

Enclosed is a modification to the Cease and Desist Order and Suspension of Permit Order issued to Renewable Environmental Solutions, Inc. (RES) on December 29, 2005.

Please be advised that during the term specified in this modified order it is the responsibility of RES to take all necessary steps to eliminate odors from their operations, including the routing of trucks to and from the facility.

If you have any questions, please contact Kurt Schaefer, Deputy Director and General Counsel, Missouri Department of Natural Resources, at (573) 751-0323.

Sincerely,

DEPARTMENT OF NATURAL RESOURCES

A handwritten signature in cursive script, reading "Doyle Childers", is written over the typed name.

Doyle Childers
Director

DC:sfd

c: Kurt Schaefer, Deputy Director and General Counsel
Joseph Bindbeutel, Chief Counsel, Office of the Attorney General
Kara Valentine, Division Counsel, Division Environmental Quality
David Mouton, City of Carthage

Mr. Don Sanders, Plant Manager
Renewable Environmental Solutions, Inc.
530 North Main
Carthage, MO 64836

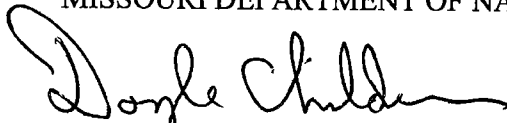
Mr. Mark Anstoetter
Shook, Hardy & Bacon
2555 Grand Blvd.
Kansas City, MO 64108-2613

AMENDMENT TO ORDER DATED DECEMBER 29, 2005

Authorization is hereby granted to Renewable Environmental Solutions, Inc. (RES) to operate consistent with the Modification to December 29, 2005 Order (submitted via email from Mark Anstoetter to Kurt Schaefer on January 10, 2006) for the period of February 1 through February 15, 2006. Specifically, RES may prepare a more benign feedstock for the process composed of Butterball feed stock mixed with grease and vegetable oils (soybeans) to be processed on a limited schedule of three days per week. RES must provide a schedule of operations prior to initiation of this project.

Upon completion of this trial operation, the Department will review the performance of RES and will make a determination as to further operations. Additionally, no decision concerning further operations will be made until the Department receives and evaluates a report from the odor consultant retained by RES.

MISSOURI DEPARTMENT OF NATURAL RESOURCES


Doyle Childers
Director

Dated this 30th day of January, 2006

DC:ltm

c: Kurt Schaefer, Deputy Director and General Counsel
Joseph Bindbeutel, Chief Counsel, Office of the Attorney General
Kara Valentine, Division Counsel, Division Environmental Quality
David Mouton, City of Carthage

EXHIBIT D

IN THE CIRCUIT COURT OF JASPER COUNTY, MISSOURI
AT CARTHAGE

STATE OF MISSOURI ex rel. JEREMIAH)
W. (JAY) NIXON, ATTORNEY GENERAL)
of MISSOURI)

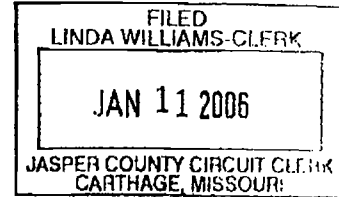
Plaintiff,)

v.)

RENEWABLE ENVIRONMENTAL)
SOLUTIONS, L.L.C.)

Defendant.)

Serve: Corporation Service Company)
d/b/a CSC-Lawyers Incorporating)
Service Company)
221 Bolivar Street)
Jefferson City, MO 65101)



Case No. 06AP-CC 00001

PETITION FOR PRELIMINARY AND PERMANENT INJUNCTION
AND CIVIL PENALTIES

COMES NOW the State of Missouri ex rel. Attorney General Jeremiah W. (Jay) Nixon ("Attorney General") and for its Petition for Preliminary and Permanent Injunction and Civil Penalties against Renewable Environmental Solutions, LLC ("Defendant"), states:

1. That Jeremiah W. (Jay) Nixon is the duly elected, qualified and acting Attorney General of the State of Missouri.
2. That the Attorney General is authorized to institute, in the name of and on behalf of the State, all civil proceedings at law or in equity necessary to protect the rights and interests of the State pursuant to § 27.060, RSMo.
3. That the Missouri Air Conservation Commission ("Commission") was created pursuant to § 643.040, RSMo, and is empowered under § 643.050, RSMo, to administer, among

other things, the Missouri Air Conservation Law, §§ 643.010 to 643.620, RSMo, and pursuant to § 643.050.1(1), RSMo, the Commission shall “adopt, promulgate, amend and repeal rules and regulations consistent with the general intent and purposes of sections 643.010 to 643.190, chapter 536, RSMo, and Titles V and VI of the federal Clean Air Act, as amended, 42, U.S.C. 7661, et seq....”

4. That the Missouri Department of Natural Resources (the “Department”) is a duly authorized state agency created under § 640.010, RSMo. Its powers and duties generally relate to environmental protection and the conservation and management of natural resources, including duties arising under the Missouri Air Conservation Law and its implementing regulations as an agency of the State of Missouri.

5. That Defendant, Renewable Environmental Solutions, L.L.C. (hereinafter “RES”) is an active foreign limited liability company registered with the Missouri Secretary of State. RES operates an agricultural waste processing plant at 530 N. Main Street, Carthage, Missouri (“the plant”). The plant employs a thermal conversion process to convert agricultural and animal wastes to oil, gas, minerals and fertilizer for sale. Upon information and belief, the majority of the waste materials handled by RES originates at the Con-Agra Food, Inc. turkey processing facility, which is adjacent to RES’ Carthage processing plant.

6. That as part of its operations, RES engages in numerous activities that discharge air contaminants, including odor. These activities include, but are not limited to, handling turkey processing residuals, processing these materials into fuel, and handling the by-products of thermo-depolymerization and chemical reforming.

7. That the acts of Defendant alleged herein occurred in Jasper County. Therefore, venue is proper in this Court pursuant to § 643.151, RSMo, and this Court has jurisdiction over all parties.

8. That § 643.151, RSMo, authorizes the Attorney General to institute “a civil action in any court of competent jurisdiction for injunctive relief to prevent any further violations of §§ 643.010-643.190, RSMo, or for the assessment of a penalty not to exceed ten thousand dollars for each violation for each day, or part thereof, that the violation continues to occur, or both, as the court may deem proper.”

9. That 10 CSR 10-3.090(2), “*Restriction of Emission of Odors*,” provides as follows, in pertinent part, “No person may cause, permit or allow the emission of odorous matter in concentrations and frequencies or for durations that odor can be perceived when one (1) volume of odorous air is diluted with seven (7) volumes of odor-free air for two (2) separate trials not less than fifteen (15) minutes apart within the period of one (1) hour.” 10 CSR 10-3.090 was duly promulgated and approved by the Commission.

10. That on March 31, 2005, the Department issued Notice of Excess Emissions (“NOEE”) to RES for odors emanating from RES’s plant that were detected by Department personnel on March 29, 2005. RES failed to substantiate startup, shutdown, malfunction conditions as the source of the odors pursuant to 10 CSR 10-6.050. Subsequently, the Department upgraded the NOEE to Notice of Violation for violating 10 CSR 10-3.090, *Restriction of Emissions of Odors*. A true and correct copy of the March 31, 2005, NOEE is attached hereto, incorporated herein and marked Exhibit 1.

11. That on April 15, 2005, the Department issued NOEE to RES for odor emanating from RES’s plant that were detected by Department personnel on April 6, 2005. RES failed to

substantiate startup, shutdown, malfunction conditions as the source of the odors pursuant to 10 CSR 10-6.050. Subsequently, the Department upgraded the NOEE to Notice of Violation for violating CSR 10-3.090, *Restriction of Emissions of Odors*. A true and correct copy of the April 15, 2005, NOEE is attached hereto, incorporated herein and marked Exhibit 2.

12. That on April 20, 2005, the Department issued NOEE to RES for odors emanating from RES's plant that were detected by Department personnel on April 18, 2005. RES failed to substantiate startup, shutdown, malfunction conditions as the source of the odors pursuant to 10 CSR 10-6.050. Subsequently, the Department upgraded the NOEE to Notice of Violation for violating 10 CSR 10-3.090, *Restriction of Emissions of Odors*. A true and correct copy of the April 20, 2005, NOEE is attached hereto, incorporated herein and marked Exhibit 3.

13. That on June 10, 2005, the Department issued NOEE to RES for odors emanating from RES's plant that were detected by Department personnel on June 8, 2005. RES failed to substantiate startup, shutdown, malfunction conditions as the source of the odors pursuant to 10 CSR 10-6.050. Subsequently, the Department upgraded the NOEE to Notice of Violation for violating 10 CSR 10-3.090, *Restriction of Emissions of Odors*. A true and correct copy of the June 10, 2005, NOEE is attached hereto, incorporated herein and marked Exhibit 4.

14. That on July 22, 2005, the Department issued NOEE to RES for odors emanating from RES's plant that were detected by Department personnel on July 15, 2005. RES failed to substantiate startup, shutdown, malfunction conditions as the source of the odors pursuant to 10 CSR 10-6.050. Subsequently, the Department upgraded the NOEE to Notice of Violation for violating 10 CSR 10-3.090, *Restriction of Emissions of Odors*. A true and correct copy of the July 22, 2005, NOEE is attached hereto, incorporated herein and marked Exhibit 5.

15. That on August 5, 2005, the Department issued NOEE to RES for odors emanating from RES's plant that were detected by Department personnel on July 27, 2005. RES failed to substantiate startup, shutdown, malfunction conditions as the source of the odors pursuant to 10 CSR 10-6.050. Subsequently, the Department upgraded the NOEE to Notice of Violation for violating 10 CSR 10-3.090, *Restriction of Emissions of Odors*. A true and correct copy of the August 5, 2005, NOEE is attached hereto, incorporated herein and marked Exhibit 6.

16. That on each of the forgoing occasions in which the Department issued an NOEE, its staff followed the proper procedures under 10 CSR 10-3.090, and determined that the odor exceeded the regulatory threshold in violation of 10 CSR 10-3.090 and § 643.151.1, RSMo.

17. That on July 2, 2002, the Department issued RES Permit #082002-001 ("the permit") to construct an air containment source ("the plant") pursuant to special conditions contained in said Permit.

18. That as of January 6, 2006, RES has not complied with special condition 5 of the permit, which requires all solid and liquid raw materials awaiting processing to be stored under roof in a storage area. The Department believes raw materials handling is one area of plant operations that causes ambient odors to escape from the facility.

19. That RES has failed to comply with special condition 5 of the permit, in violation of Missouri's Air Conservation Law, § 643.151, RSMo, for each and every day since permit issuance.

20. That for each violation of special condition 5 of said permit, and each violation of 10 CSR 10-3.090, *Restriction of Emissions of Odors*, the court may assess against RES a penalty not to exceed ten thousand dollars (\$10,000.00) for each violation per day for each day, or part thereof, that the violation continues to occur, or both, under § 643.151.3, RSMo.

21. That RES's plant has caused and continues to cause the emission of air contaminants in violation of Sections 643.010 through 643.190, RSMo, and rules promulgated thereunder.

22. That based on information and belief, the State has exhausted all avenues of conference, conciliation and persuasion in an effort to assist RES in resolving this issue.

23. That Plaintiff believes, unless restrained and enjoined by the court, defendant will continue to violate the permit and 10 CSR 10-3.090, *Restriction of Emissions of Odors*.

24. That Plaintiff does not have an adequate remedy at law.

WHEREFORE, Plaintiff prays for this Court to grant the following relief:

A. Issue a Preliminary and Permanent Injunction ordering that RES cease all activities conducted under Permit #082002-001 that result in discharges of air contaminants in violation of Permit #082002-001;

B. Issue a Preliminary and Permanent Injunction ordering that RES immediately take any and all steps necessary so as to ensure that the plant complies with 10 CSR 10-3.090, "*Restriction of Emissions of Odors*;"


C. Issue a Preliminary and Permanent Injunction ordering that RES immediately take any and all steps necessary to come into compliance with the permit;

D. Impose against Defendant RES the maximum penalties allowed by law for said permit violations and violations of 10 CSR 10-3.090, *Restriction of Emissions of Odors*; and

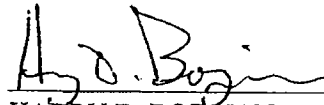
E. Award Plaintiff costs and expenses incurred by the State, as well as costs expended at hearing, and any and all such other relief as this court deems just and proper under the circumstances.

Respectfully submitted,

JEREMIAH W. (JAY) NIXON
Attorney General



WILLIAM J. BRYAN
Deputy Chief Counsel
Missouri Bar No. 37711



HARRY D. BOZOLAN
Assistant Attorney General
Missouri Bar No. 37535

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